

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36186

TEXAS RAILWAY EXCHANGE LLC—CONSTRUCTION AND OPERATION
EXEMPTION—GALVESTON COUNTY, TEX.

Decided: February 15, 2019

On November 21, 2018, Texas Railway Exchange LLC (TREX) filed a petition under 49 U.S.C. § 10502 for an exemption from the prior approval requirements of 49 U.S.C. § 10901 to construct and operate a proposed common carrier rail line in Galveston, Tex. (the Line). According to TREX, the proposed Line would consist of approximately one-half mile of rail line and would provide the Texas International Terminals Ltd. (TIT) with a permanent, direct, and more efficient connection to the BNSF Railway Company (BNSF) to better serve the business needs of TIT, BNSF, third party shippers, and the public. TREX states that TIT's customers currently rely on reciprocal switching service from the Union Pacific Railroad Company (UP) for BNSF trains to access TIT.

On December 5, 2018, UP filed a motion to extend its deadline to reply to the petition until 20 days after TREX completes its responses to discovery requests served by UP on December 4, 2018. UP stated that it had requested discovery responses from TREX by December 19, 2018. On December 7, 2018, TREX filed in opposition to UP's motion but also indicated that it intended to respond to UP's discovery requests and provide UP with relevant, responsive information. By decision served on December 11, 2018, UP's motion was granted, and TREX was directed to promptly file a notice with the Board when its discovery responses are completed.

By decision served on February 11, 2019, the parties were directed to submit a report updating the Board on the status of the discovery served by UP on December 4 and when the parties expect to complete that discovery. On February 13, 2019, the parties filed a joint status report indicating that TREX expects to complete discovery production within a few days, and that UP intends to review the additional material and work to resolve any issues in a timely manner.

The petition for exemption raises issues that require consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. § 10502(b). The issues presented by the petition will be addressed in a subsequent decision.

In order for the Board to expeditiously consider the merits of TREX's petition, the parties will be directed to complete discovery by February 22, 2019, and replies to TREX's petition will

be due by March 14, 2019. The Board's Office of Environmental Analysis is expected to issue a Draft Environmental Assessment on February 22, 2019, for public review and comment.

It is ordered:

1. Under 49 U.S.C. § 10502(b), a proceeding is instituted.
2. The parties are directed to complete discovery by February 22, 2019.
3. Replies to TREX's petition are due by March 14, 2019.
4. This decision is effective on its date of service.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.